



The Implications of New Labour Codes For Precarious Employment: An Analytical Study

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Abstract:

This paper will do An Analytical study of New Labour Codes with respective old Labour laws and its Implications for precarious Employment. This paper begins with a brief history of Labour laws in India as well as the introduction and rise of precarious employment and its growing significance in India. Precarious employment involving temporary, part-time, contract and gig work has significantly increased in recent decades. New Labour reforms are driven by globalization, changing Economic realities and technological advancement have aimed to increase Labour market flexibility often at the expense of worker protection. This study will analyze the impact of these reforms on the important aspects of precarious employment including job security, wage benefits and social security. The debate on Labour Market regulation is highly disunited in India. Patrons of Labour market deregulation argue that the existing Labour laws framework gives excessive power to workers and trade unions resulting in industrial conflict and poor productivity. This paper will analyze the veracity of these claims using comparative analysis of new Labour Codes and the existing laws.

Keywords: Precarity, Labour Reforms, employment, Neoliberalism.

Introduction:

After the 1980's the world economy has shifted its base from the keynesian welfare state to a neoliberal capitalist state which advocates free market, intellectual property rights, privatization, commodification and more importantly knock down all the institutions and mechanisms of social solidarity. This leads to change in the existing class structure and emergence of the new one, Precariats are one of them, they are characterized as casual Labourers and don't have any written contracts as well as any non-wage benefit also deprived from their right to form union and other social rights as workers. Recently we are witnessing various forms of precarious employment

such as gig workers, platform workers, part time workers and temporary workers. Due to changes in policy framework by the states in the entire world, features of precarious work can be seen globally.

In Indian constitution Labour Law is part of concurrent list means Union government and state government both can make laws on Labour regulation. The Indian Government announced Labour reform and replaced all Labour laws with four codes i.e code on wages, social security code, Industrial relation code and Occupational safety health and working condition code 2020. In 2014 Rajasthan became the first state to make bold changes in Labour laws on state level. Which fires the debate in India

about Labour reforms and the supporters of Labour reform start arguing that flexibility in the Labour market will help firms to enhance competitiveness and stimulate economic growth. The supporter of Labour market reforms claims that absence of Labour regulation results in employment of resources at the market-clearing prices, which leads to efficiency, and it ensures full employment of almost all resources and all are rewarded according to their marginal contribution (Jha 2016).

This research paper investigates the possible impact of the New Labour Reforms on the prevalence and conditions of precarious employment. This study aims to:

1. Analyze the impact of specific Labour reforms on different forms of precarious employment.
2. Identify the challenges and opportunities presented by these reforms for workers in precarious employment.
3. Offer policy recommendations to mitigate the negative impacts of Precarious Employment and ensure fair and equitable Labour markets.

Research Methodology:

A Secondary study has been done to learn the importance and the role of Labour laws in the Labour market regulation, As well as studied what will be the implications of new Labour codes on the precarious employment. To Attend aforesaid, information from the Labour laws, new Labour codes, journals, articles and websites were collected. All data include

secondary data. Appropriate reference has been given whenever essential.

Precarious Employment:

Precarious employment is multifaceted phenomenon with diverse facts and characteristics it confines a broad spectrum of employment arrangements includes following

1. **Temporary employment:** Short term contract or fixed term contract where period of employment is limited as well as fix and no guarantee of renewal.
2. **Part time Employment:** Working for fewer hours than full time employees, without access to full time benefits.
3. **Contract work:** Employment which is based on a specific contract with defined projects and services.
4. **Gig Work:** individual contractor who provides service on a flexible, on demand basis.
5. **Platform work:** Employment facilitated by the digital platforms, such as food delivery, online freelancing and ride hailing.

The define characteristics of Precarious employment is define as follow:

1. **Job insecurity:** Due to Lack of stable employment and short term contract as well as constant threat of job loss.
2. **Low wages:** Often characterized by low hourly wages, lack of overtime pay, and limited opportunities for wage growth.
3. **Limited Non Wage benefits:** limited access health insurance, paid leaves, retirement benefits and other employee benefits.

4. **Lack of social protection:** Inadequate access to social safety nets, such as unemployment insurance, sick leave, and workers' compensation.
5. **Limited bargaining power:** Weak or non-existent collective bargaining rights, leading to limited ability to negotiate wages, benefits, and working conditions.

Need of Labour Reforms:

The employment relation debate is largely centred on regulation of the Labour market and the role of actors within the existing regulatory framework, particularly the state, trade union and employers (A.Sharma 2006). One of the major causes of worsening conditions of work is the Neo-liberal obsession with Labour market reforms which have acquired a centrality in dominant discourses on contemporary economic policy (Praveen Jha 2016). The view that there are marked rigidities in the Labour market due to a high degree of protection to organized Labour has gained considerable ground and the official thinking has endorsed such a view explicitly (Economic Survey 2005-6). Many economists and analysts argue that regulation of the Labour market and existence of Labour institutions leads to a reduced rate of job creation and hence leads to higher unemployment (Salavances 1997, Blanchard and Wolfers 2000). Advocates of such a view recommend elimination and reduction of Labour market regulation in order to Foster Labour reallocation and higher competition which according to them will enhance growth (Bukri and Perry 1997). In India industrial relations are governed by a

complex web of Labour law, The focus of employers and the pro reforms thinkers are on few of them such as Industrial Dispute Act 1947, Factories Act 1948, Trade Union Act 1926, Contract Labour (abolition and regulation) Act 1970.

1. Industrial Dispute Act 1947:

Industrial Dispute Act 1947 (IDA) is one of the key industrial relation laws. This act lays down the procedure for prior permission of the government for laying off or retrenching the worker or closing down the industrial Establishment. This act made a provision for the payment of compensation on account of lay off, retrenchment or closure of industrial establishments. It also has procedures to take action against unfair Labour practice on the part of an employer or trade union or employee.

2. Factories Act 1948 :

this act aims to consolidate and amend the law regulating Labour in factories in India. This act deals with provisions of health, safety, working hours, leaves and welfare of workers, inspecting staff for factories, hazards processes in the factories and penalties for breaching the provisions of the act.

3. Contract Labour (Regulation and Abolition) Act 1970 :

The Aim Contract Labour Act 1970 (CLA) is to gradual abolition of casual worker hiring and regulation of working conditions of Casual workers those permitted to work. This law also put restrictions on the use of short term indirect Labour. This law also specifies the task for which an employer

can hire workers on short term contracts. It prohibits the employment of contract Labour in core activities in the firm.

4. **Trade Union Act 1926** : this act allows the registration of the trade union by any seven employees (including managers) in an establishment or a minimum 10% of employees working in an industry or 100 workers whichever is less.

As noted earlier the employers are demanding reforms to the above laws, since these laws are an obstacle in the Labour market flexibility and ultimately lead to the Labour market rigidity and affect the employment and growth. For instance, according to provision IDA a firm has to take permission from the appropriate government before laying off, retrenching even a single worker or closing down the firm.

New Labour Codes:

Indian Parliament passed three Labour code bills as part of a measure to consolidate existing 40 Labour laws into 4 codes. The Most awaited demand of Employers to liberalize the Labour laws and make them more flexible for the sake of competitiveness and the growth of industries is being fulfilled by the government in the form of these Labour codes. The codes introduced by the government are Code on Wages 2019, Industrial Relation Code 2020, Code on Social Security 2020, Code on Occupational Safety, Health and Working Conditions 2020. All of them, the Industrial Relation code is the most controversial because it gives overwhelming Labour market flexibility

to the employer which can lead to precarious employment in the country.

1. Industrial Relation Code (IRC) 2020: Prolonged Demand of Labour reforms has been addressed by the union government by passing four Labour codes. Industrial Relation code is one of them which is the most controversial for its provisions which are as follows. Industrial Relation Code 2020 (IRC) combines the features of three laws.

1. Industrial Dispute Act 1947,
2. The Industrial Employment (Standing Orders) Act 1947,
3. The Trade Union Act 1926.

IRC has taken away the workers rights to go on strike by making the provision that no worker can go on strike before giving 60 days advance notice. IRC has also raised the threshold limit for standing order rules of conduct for employees working in Industrial Establishment from 300 workers to existing 100 workers. Government Approval is not required for the companies with 300 workers or fewer workers in case of retrenchment and closure earlier this limit was 100 workers. The membership requirement for the union has increased 10% or 100 workers whichever is less from existing minimum seven workers. New provision of Fixed term employment is introduced which refers to workers employed for fixed duration on contract sign between worker and employer. According to the IRC union has to get the Recognition of 'negotiating union' is mandatory. IRC empowered the employers by Hiring and firing provision which may lead to raised precarious employment. IRC also Amended the definition of strike if 50% of workers or

than that will go on mass casual leave then this can be considered as strike. These are the changes that will highly affect the workers and trade unions bargaining power and protection against unfair Labour practices.

2. Code on Occupational Safety, Health and Working Conditions 2020 :

Code on Occupational Safety, Health and Working Conditions 2020 (OSHC) subsumes 633 provisions of 13 major laws into a single code, Couple of them are very important for Labour flexibility such as, 1. The Factories Act 1948, 2. Contract Labour (Regulation & Abolition) Act 1970. Since OSHWC replaced the above laws the pro workers provisions or protection against unfair Labour practices as well as social benefits provide in The Factories Act 1948 and Contract Labour Act 1970 is not addressed in the OSHWC, for example the main of of Contract Labour Act 1970 is gradual abolition of casual Labour hiring and the regulation of working conditions where casual Labour is permitted. Also the restriction on the employer to use short term indirect Labour is being abolished means there is no condition mentioned in the OSHWC regarding the period of hiring the casual Labours, this can lead to reduction in the organised Labour. This code is applied on the factories having 20 employees and the manufacturing process carried out with the aid of power and 40 or more workers where manufacturing carried out without the aid of power which is according to The Factories Act 1948 is 10 workers working in factories with use of power and 20 workers working in the factories without use of power. The limit of female workers for the purpose of creating creche facilities for the children

below 6 years old is increased to 50 female workers from 30 female workers currently.

Potential Impacts:

The potential impacts of the above Labour reforms will be the overwhelming power to the employer in industrial relations which weakens the employees and the unions power of bargaining leading to the lower wages, reduced benefits and increased job insecurity. Flexibl

work arrangements deepen these issues with limited rights and protections and will lead to increased Precarity. New Labour reforms weakened Labour laws and collective bargaining rights also weakened the ability of workers for fair wage negotiation, safe working conditions and decent work. Precarious employment intensifies social inequalities particularly for low skilled workers, womens and marginalized groups, it will also strain the social safety net as workers may become increasingly dependent on public assistance.

Case Study:

'Labour' in India is a part of concurrent list, both union and state can engage in the Labour regulation. The Indian state of Rajasthan in 2014 was the first state to introduce Labour reforms in the Industrial Disputes Act (1947), the Factories Act (1948), the Contract Labour (Regulation and Abolition) Act (1970) most of these reforms are pro Employer and against the Labour and union. Amend each of the acts are as follows.

1. The Industrial Disputes Act (1947): (a) The government approval is not required for the

companies with 300 or less than that in case of clouser, layoffs or retrenchment earlier it was 100. (b) The membership requirement to form a union has increased from 15% to 30% of the total workmen. (c) The time limit for any worker to object has been reduced to three years from an indefinite period.

2. **The Factories Act (1948):** (a) The threshold limit increased from 10 or more workers with the power to 20 or more workers with power, and 20 or more workers without power to 40 or more workers without power. (b) Any complaint against the employer about the violation of this Act will not receive cognisance by a court without prior permission from the state government.
3. **The Contract Labour (Regulation and Abolition) Act (1970):** (a) Applicable to establishments that employ 50 or more workers on contract against the former 20 or more workers.

Outcomes of these reforms are the bargaining power of Labourers and unions are reduced. Due Pro-employer reforms employers get the authority to shed the workers quickly which leads to decline in employment

Impact of Rajasthan Labour reforms as follows.

- Higher Flexibility in Labour reforms leads to less growth in employment.
- Higher flexibility in Labour reforms resulted in more use of contractual workers instead of permanent workers.
- The reforms lead to reduction in directly employed workers.

- The bargaining power of Labourers and unions has been reduced.

Critical analysis of Labour market Reforms:

The assumption that the Labour market regulation will lead to economic growth and stability is failed in the Case of the State of Rajasthan. The reforms aimed at increasing the economic growth at the cost of deregulation of the Labour market failed because instead of providing more protection to the workers these regulations disabled them from their privileges of bargaining and social security measures and led to feel unprotected which ultimately leads to productivity. The argument that Labour market rigidity is affecting growth is not true because employers, for being cost competitive instead of doing significant changes in the infrastructure and hazards working conditions, want to reduce Labour cost. After the emergency of neoliberalism, employers around the globe wanted Labour market flexibility so that they could produce their product at a minimum cost, be competitive and increase their profits. Three principles lie behind the Labour reforms. First the employer should have the freedom to hire the contract Labour to dispense with Labour services and closed business according to the need of business and market dynamics without being restrained by administrative intervention. Second, the employer should not be forced by collective institutions such as trade unions, collective bargaining and industrial actions in a manner beneficial to a competitive market economy. Third, the state governments should be given the

freedom and be facilitated to pursue investment and capital.

Conclusion:

This study highlighted the complex and multifaceted impact of New Labour Reforms on precarious employment. While some reforms aim to enhance the Labour market flexibility and competitiveness unintentionally intensify Precarity, leading to low wages, reduced benefits and increase vulnerability for workers. The problem of Labour market flexibility is complex and can not solve just by deregulation of Labour market instead protective Labour strategies that upgrade and provide access to basic social security for working poor will help to improve the problem of Labour efficiency and levels of production. The view that merely the Labour market reforms will solve the problem of growth and rigidity in the Labour market is wrong since around 7 % of workers in the country are in the organised sector. Within the organized sector the share of informal work is dramatical increased as per the most recent estimate it is close to 60% of the workers in the organized sector. Hence addressing challenges of precarious employment requires a balanced approach that prioritizes both economic growth and social equity. This may involve strengthening the workers rights, promoting decent work standards, improving social safety nets and investing in the skilled development to equip workers for changing Labour demands of the market.

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